

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EDWIN HERNANDEZ, ARLES GRANADOS)	
LAZO, JOSE ORTEZ, YERLIN ORTEZ,)	
MARTIR SOTO, AND SANTOS VELASQUEZ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:13-cv-10394-WGY
)	
GOLDEN APPLE, INC., POMODORO NORTH)	
END, INC., MATT MURPHY'S PUB, INC.,)	
SIOBHAN CAREW, AND JONATHAN PELL,)	
)	
Defendants.)	

**MOTION TO WITHDRAW APPEARANCES AND REQUEST FOR 60-DAY
EXTENSION OF EVENTS FOR DEFENDANTS TO OBTAIN SUCCESSOR COUNSEL**

Pursuant to Rule 85.5.2(c) of the Local Rules of the United States District Court for the District of Massachusetts, Ellen C. Kearns and Christopher M. Pardo of Constangy, Brooks and Smith, LLP ("Defendants' Counsel") respectfully request leave to withdraw their appearances on behalf of Defendants Golden Apple, Inc., Pomodoro North End, Inc., Matt Murphy's Pub, Inc., Siobhan Carew and Jonathan Pell ("Defendants") in the above-captioned matter.

Defendants' Counsel further move this Court to extend the following events for 60 days to enable Defendants to secure successor counsel:

- (a) the due date for Defendants to respond to Plaintiffs' Opposition to Jonathan Pell's Motion for Summary Judgment and Plaintiffs' Motion to Stay Consideration of Summary Judgment Motion, up to and including December 24, 2013;
- (b) the due date for Defendants to serve their Initial Disclosures upon Plaintiffs, up to and including December 24, 2013; and
- (c) the only hearing currently set in this matter, until or after December 30, 2013, for a date and time convenient for the Court.

Attorneys' request for leave to withdraw in a civil case "is a matter addressed to the discretion of the trial judge." Andrews v. Bechtel Power Corp., 780 F.2d 124, 135 (1st Cir. 1985). The basis for Defendants' Counsel's need to withdraw from this matter is set forth in the Affidavit of Ellen C. Kearns and the Affidavit of Christopher M. Pardo as Exhibits A and B, respectively. Defendants' Counsel files herewith a motion to file these Affidavits under seal. With respect to the current status of the matter, Defendants' Counsel state as follows:

1. The due date for Defendants to file their response to Plaintiffs' Opposition to Jonathan Pell's Motion for Summary Judgment and Plaintiffs' Motion to Stay Consideration of Summary Judgment Motion is October 25, 2013. (See Docket Entry Nos. 36, 48) Therefore, Defendants' Counsel move this Court to extend this deadline up to and including December 24, 2013 in order for Defendants to secure successor counsel and to give such counsel adequate time to respond.

2. The due date for Defendants to serve their Initial Disclosures upon Plaintiffs is also October 25, 2013 (as previously mutually agreed by such counsel), and Defendants' Counsel similarly request a 60-day extension of this deadline. No depositions have been scheduled, and there is no urgent need for Defendants' Initial Disclosures to be served upon Plaintiffs within the next 60 days. Therefore, Defendants' Counsel move this Court to also extend the deadline for Defendants to serve their Initial Disclosures up to and including December 24, 2013.

3. The only hearing presently set in this matter is scheduled for October 30, 2013, at which time the court will hear arguments on Jose Ortiz's Motion to Dismiss for Failure to State a Claim and Jonathan Pell's Motion for Summary Judgment. Therefore, Defendants move this Court to reschedule the hearing until on or after December 30, 2013.

4. Defendants' Counsel further state that no other motions are pending, no other hearings are scheduled before the Court, and no reports, oral or written, are due at this time. See Local Rule 85.5.2(c). Moreover, the trial in this matter is not scheduled until October 6, 2014, and Defendants' successor counsel will have ample time to conduct discovery and prepare for trial. Id.

For the reasons set forth in Exhibits A and B, Defendants' Counsel move this Court to exercise its discretion and grant the relief sought herein. Because Plaintiffs will not be prejudiced in any way if the requested extensions are granted, Defendants' Counsel further move this Court to: (a) Extend the due date for Defendants to file their response to Plaintiffs' Opposition to Jonathan Pell's Motion for Summary Judgment and Plaintiffs' Motion to Stay Consideration of Summary Judgment Motion until December 24, 2013; (b) Extend the due date for Defendants to serve their Initial Disclosures upon Plaintiffs until December 24, 2013; and (c) Reschedule the upcoming hearing until on or after December 30, 2013 to enable Defendants to obtain successor counsel.

Respectfully submitted,

/s/ Christopher M. Pardo

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Dated: October 25, 2013.

CERTIFICATE OF CONSULTATION

I, Christopher M. Pardo, hereby certify that I conferred with counsel for plaintiffs in advance of filing this motion and was unable to narrow the issues raised herein.

/s/ Christopher M. Pardo
Christopher M. Pardo

Dated: October 25, 2013.

CERTIFICATE OF SERVICE

I, Christopher M. Pardo, hereby certify that, on this 25th day of October, 2013, this document was filed through the CM/ECF system and will be sent electronically to the following registered participants as identified on the Notice of Electronic Filing:

Michaela C. May, Esq.
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/s/ Christopher M. Pardo
Christopher M. Pardo